

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7409

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ERIC V. BANKS,

Defendant - Appellant.

Appeal from the United States District Court for the Northern
District of West Virginia, at Martinsburg. W. Craig Broadwater,
District Judge. (CR-02-26; CA-03-39)

Submitted: January 7, 2005

Decided: January 24, 2005

Before LUTTIG, MICHAEL, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Eric V. Banks, Appellant Pro Se. Thomas Oliver Mucklow, Assistant
United States Attorney, Martinsburg, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Eric V. Banks seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his motion filed under 28 U.S.C. § 2255 (2000). An appeal may not be taken from the final order in a § 2255 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that, although the district court's conclusion that Banks failed to sign his § 2255 motion and supporting brief was erroneous, Banks has failed to demonstrate that it is debatable whether he has stated valid claims of the denial of a constitutional right. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED